

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	No .09-MC-9002-DGK
)	
TERRY L. WEBSTER and)	
GAYLA J. WEBSTER,)	
)	
Defendants.)	

**REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

The United States filed a Petition to Enforce Internal Revenue Service Summonses. Filed with the Petition is a Declaration by Allison Malone, Revenue Officer. Thereafter, a Show Cause Order was entered. On May 20, 2009, Terry L. Webster appeared personally for a show cause hearing. He requested to be represented by an individual to whom he had given a “power of attorney.” Because that individual was not a licensed attorney, that request was denied. Gayla J. Webster did not appear. The United States was represented by Earl Brown, Assistant United States Attorney.

United States v. Powell, 379 U.S. 48, 57-58 (1964), established the elements of the prima facie case that the government must present in seeking enforcement of a Revenue Service Summons. It must show 1) that the investigation will be conducted pursuant to a legitimate purpose; 2) that the inquiry may be relevant to the purpose; 3) that the information sought is not already within the Commissioner’s possession, and 4) that the administrative steps required by the Code have been followed—in particular, that the “Secretary or his delegate,” after

investigation, has determined the further examination to be necessary and has notified the taxpayer in writing to that effect. The Declaration of Revenue Officer Allison Malone established that the investigation of these taxpayers is for the purpose of determining their tax liability for the years ending December 31, 2000, 2001, 2002 and 2003. The records sought from the taxpayers are clearly relevant to this determination.

Because the prima facie case has been established, and because the taxpayers have done nothing to disprove a valid civil purpose for the investigation and summonses, United States v. LaSalle National Bank, 437 U. S. 298, (1978), it is

RECOMMENDED that the Petition to Enforce Internal Revenue Service Summonses be granted, and that the taxpayers be directed to appear before the United States District Judge to whom this matter is assigned at a time established by that Court and produce all records required by the summonses or, in the alternative, show cause why they should not be held in contempt.

/s/ James C. England
JAMES C. ENGLAND, CHIEF
UNITED STATES MAGISTRATE JUDGE

Date: August 10, 2009